## UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

ALEXANDER STYLLER, INTEGRATED	
COMMUNICATIONS & TECHNOLOGIES,	)
INC., JADE CHENG, JASON YUYI, CATHY	)
YU, CAROLINE MARAFAO CHENG,	)
PUSHUN CHENG, CHANGZHEN NI,	)
JUNFANG YU, MEIXIANG CHENG,	)
FANGSHOU YU, and CHANGHUA NI,	)
	)
Plaintiffs,	) Civil Action No. 1:16-CV-10386 (LTS)
v.	)
	)
	)
HEWLETT-PACKARD FINANCIAL	)
SERVICES COMPANY, HEWLETT-PACKARD	)
FINANCIAL SERVICES (INDIA) PRIVATE	)
LIMITED, HP INC., HEWLETT PACKARD	)
ENTERPRISE COMPANY, and DAVID GILL,	)
	)
Defendants.	)
	)

## PLAINTIFFS' CROSS-MOTIONS (1) FOR PARTIAL SUMMARY JUDGMENT ON THE ISSUE OF COUNTERFEITING AND (2) TO EXCLUDE DEFENDANTS' EXPERT WITNESS

Plaintiffs, through their undersigned counsel, respectfully move for partial summary judgment on the issue of counterfeiting pursuant to Rule 56(a) of the Federal Rules of Civil Procedure and Local Rule 56.1.

Rule 56(a) permits the Court to grant summary judgment "on the part of each claim or defense," and Plaintiffs respectfully seek summary judgment that the equipment at issue was counterfeit because there are no genuine disputes of fact that the equipment bear counterfeit registered trademarks and, as a matter of law, goods bearing counterfeit registered trademarks are considered counterfeit. Accordingly, Plaintiffs seek summary judgment declaring the

equipment counterfeit and barring Defendants from advancing any theory in this case denying that Defendants sold counterfeit goods to ICT.

Plaintiffs also move to exclude Defendants' expert witness pursuant to Rule 702 of the Federal Rules of Evidence and <u>Daubert</u>, and rely on their memorandum of law, Dkt 330 pp. 17-23, and supporting affidavits and exhibits, Dkt. 331.

Defendants' expert report should also be excluded from the Court's consideration of Defendants' motion for partial summary judgment on the grounds that report is "unsworn and thus is hearsay, which may not be considered on a motion for summary judgment." Pack v.

Damon Corp., 434 F.3d 810, 815 (6th Cir. 2006). Dkt. 330 p. 27. Moreover, the report cannot be sworn as "true and correct" by a subsequent affidavit of the expert witness because the witness had testified on deposition that the report contained "false" statements. Dkt. 331-1, Raina Tr.

111/1-11; 112/3-7.

April 17, 2020

Respectfully Submitted,

Dimitry Joffe JOFFE LAW P.C.

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Counsel to Plaintiffs

## **CERTIFICATE OF SERVICE**

I, Dimitry Joffe, hereby certify that on this 17th day of April 2020, I caused a copy of Plaintiffs' Cross-Motions to be served by ECF upon Defendants' counsel of record.

Dimitry Joffe

JOFFE LAW P.C.

Counsel to Plaintiffs

Simily John